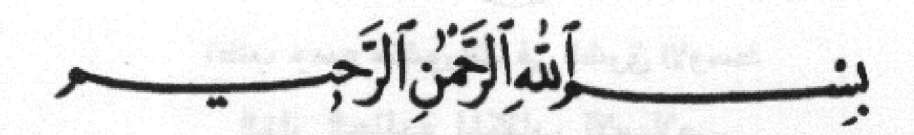
Human Rights in Islam

Abul A'la Mawdudi



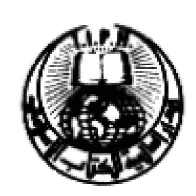
THE ISLAMIC FOUNDATION



IN THE NAME OF ALLAH
THE MERCIFUL THE COMPASSIONATE

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HUMAN RIGHTS IN ISLAM

Abul A'lā Mawdūdī



THE ISLAMIC FOUNDATION

Contents

Preface

"Man is born free, but is everywhere in chains" – the paradox is as true in the twentieth century as it was in the eighteenth or earlier ones. All attempts to seek a solution to the problem within a purely secular framework fail after a certain point.

In some respects the contemporary situation is an improvement over that which prevailed three centuries ago; in others, things have deteriorated. Totalitarianism and despotism are today more firmly entrenched in some parts of the world than they ever were in the past and new threats to human freedom and dignity have emerged from the structure of modern technological society.

The need to reappraise the foundations on which the whole concept of human rights rests has therefore never been so pressing as it is today. Mawlānā Abul A'lā Mawdūdī, one of the greatest thinkers of the world of Islam and a scholar who has immensely influenced people everywhere, has examined this issue in the context of the Divine guidance contained in the Qur'ān and *sunnah*, the sources of Islam.

Born in 1903 C.E., Mawdūdī started his public career as early as 1918. He wrote and spoke as editor, scholar, religious thinker and leader of a movement, authoring over a hundred works of varying size and delivering more than a thousand speeches. His death in September 1979 marks the end of an era.

He made his debut in the intellectual life of the Indo-Pakistan subcontinent in 1927, at the early age of twenty-four, and created a stir by his voluminous scholarly work *Al-Jihād fi al-Islām* ("Jihad in Islam") first serialized in a newspaper, and subsequently published in the form of a book in 1930. From the early thirties he was a major, dominating, undaunted figure on the intellectual scene of the Indo-Pakistan subcontinent. The monthly magazine *Tarjumān al-Qur'ān,* which he edited since 1933, has been a major influence on the minds of the Muslim intellectuals of the subcontinent. Since the forties, when Mawlānā Mawdūdī's writings began to be available in translated versions, especially in Arabic and English, his ideas have attracted an increasing number of people far beyond the confines of the subcontinent. It is no exaggeration to say that by the time of his death he had become the most widely read Muslim author of our time, contributing immensely to the contemporary resurgence of Islamic ideas, feelings and activity all over the world.

Islam, however, was never a merely intellectual concern of Mawlānā Mawdūdī. He consciously tried to live Islam and to live for Islam. As far back as his mid-twenties he had resolved not only to devote all his energy to expounding the teachings of Islam, but also to do all that lay in his power to transform Islamic teachings into practical realities. Mawlānā Mawdūdī was always emphatic in asserting that Islam is not merely a body of metaphysical doctrines, nor merely a bundle of rituals, nor even merely a

set of rules of individual conduct. It is indeed a way of life, the bases of which lie rooted in Divine Revelation; a way of life which is permeated with God-consciousness and is oriented to doing God's Will and actualising good and righteousness in human life. A Muslim is committed to follow this way of life, to bear witness to it by word and deed, and to strive in order to make it prevail in the world. Hence, in addition to his intellectual contribution, in 1941 Mawlānā Mawdūdī founded a movement known as the *Jamā'at-i Islāmī* ("The Islamic Organization"). He led this movement as its chief from its inception till 1972. Even after getting himself relieved of the duties of its formal headship for reasons of health, he continued to be a major source of guidance and inspiration for those associated with the *Jamā'at-i Islāmī,* and indeed for a very large number of men and women across the globe, who do not have any affiliation to that organization. More and more people, particularly Muslims of the younger generation, are coming to appreciate Mawdūdī and even identify with the vision of Islam that he articulated so lucidly and incisively.

Mawlānā Mawdūdī, therefore, was no mere academician; he was also a man of action engaged in a grim struggle for the implementation of the Islamic vision. During this struggle the many sterling qualities of his character came to the surface – notably his magnanimity and tolerance. It is because of his involvement in practical matters, especially since 1948, that Mawlānā Mawdūdī often had to suffer persecution at the hands of the men of authority in Pakistan who failed to perceive the real motives and true character of his movement. Many a time he had to court imprisonment, not unlike some of the great heroes of Islam – Abū Ḥanīfah, Aḥmad ibn Ḥanbal, Ibn Taymīyah, Shaykh Aḥmad Sirhindī, and Sayyid Quṭb of our own time, to name only a few luminaries. Not only that, in 1953 he narrowly escaped the gallows and, in 1963, the bullets of an assassin. In braving persecution for the sake of his cause, Mawlānā Mawdūdī displayed a serene dignity and heroic fearlessness which won him the abiding love and respect of friends and foe alike.

It is remarkable that despite the exacting tasks laid on Mawlānā Mawdūdī's shoulders as the head of a large movement, he remained prolific as a writer and his writings remained impressive, not only qualitatively, but also quantitatively. His *magnum opus*, of course, is his translation and *tafsīr* (exegesis) of the Holy Qur'ān, an epitome of his elegant literary style, his erudition, and the clarity and brilliance of his thought. One of the major characteristics of Mawlānā Mawdūdī was his ability to bring out the relevance of Islam to the problems and concerns of man in the present age. This is largely because he combined with his Islamic scholarship an awareness and knowledge of the intellectual trends and practical problems of man in the modern age. In encountering the challenge of modernity, Mawlānā Mawdūdī displayed neither ultra-conservative rigidity, nor proneness to be overawed by the ideas and institutions current in our time simply because they were fashionable in the modern age or had gained respectability among the nations which are currently the leaders of the

world. He wanted the Muslims to appropriate creatively the healthy and beneficial elements from the cumulative treasure of human experience, and to employ them to serve the higher ends of life embodied in the Islamic tradition. It is this aspect of Mawlānā Mawdūdī which has attracted many, but at the same time repelled many others, particularly the ultra-conservative and the ultra-westernized elements in Muslim society.

Human Rights in Islam is an English translation of a talk given by Mawlānā Mawdūdī at the invitation of the Civic Rights and Liberties Forum at Flatties Hotel, Lahore, Pakistan, on 16th November, 1975. To put the discussion in perspective, we are including an earlier talk by Mawlānā Mawdūdī on the political system of Islam. These two talks taken together should enable the reader to form a clear idea of the political framework and the nature and concept of human rights in Islam.

Chapter one has been translated by the undersigned, while chapters two to five have been translated by Professor Ahmed Said Khan, Principal, El-Kanemi College of Islamic Theology, Maidugri, Nigeria. Dr. M. M. Ahsan has reviewed and revised these latter chapters in general and the translation of Arabic text from the Qur'ān and *sunnah* in particular. The translation and editing work has been done under the auspices of the Islamic Foundation. My friend, Mr. Paul Moorman, Editor, *Middle East Education,* London, and former Foreign Editor, *Times Higher Educational Supplement,* has helped us in revising the translation for this second edition. Our thanks are also due to Mrs. P. R. Phillips for her useful comments on some parts of the manuscript. I also take this opportunity to place on record my gratitude to Brother Khurram Murad and other colleagues in the Islamic Foundation for seeing this through the press.

Khurshid Ahmad

The Islamic Foundation,
Leicester.
24 April, 1980.
9 Jumāda al-Thānī, 1400.

1

The Political Framework Of Islam[1]

The political system of Islam is based on the three principles of *tawḥīd* (Oneness of God), *risāla* (Prophethood) and *khilāfa* (Caliphate).[2]

Tawḥīd means that one God alone is the Creator, Sustainer and Master of the universe and of all that exists in it – organic or inorganic. He alone has the right to command or forbid. Worship and obedience are due to Him alone. No aspect of life in all its multifarious forms – our own organs and faculties, the apparent control which we have over physical objects or the objects themselves – has been created or acquired by us in our own right. They are the bountiful provisions of God and have been bestowed on us by Him alone.

Hence, it is not for us to decide the aim and purpose of our existence or to set the limits of our worldly authority; nor does anyone else have the right to make these decisions for us. This right rests only with God. This principle of the Oneness of God makes meaningless the concept of the legal and political sovereignty of human beings. No individual, family, class or race can set themselves above God. God alone is the Ruler and His commandments constitute the law of Islam.

Risāla is the medium through which we receive the law of God. We have received two things from this source: the Qur'ān, the Book in which God has expounded His law, and the authoritative interpretation and exemplification of that Book by the Prophet Muḥammad (blessings of Allah and peace be upon him), through word and deed, in his capacity as the representative of God. The Qur'ān laid down the broad principles on which human life should be based and the Prophet of God, in accordance with these principles, established a model system of Islamic life. The combination of these two elements is called the *sharī'a* (law).

Khilāfa means "representation". Man, according to Islam, is the representative of God on earth, His vice-gerent; that is to say, by virtue of the powers delegated to him by God, and within the limits prescribed, he is required to exercise Divine authority.

[1] This is an English translation of a talk given by the author on Radio Pakistan, Lahore, on 20th January, 1948. The text has been slightly revised. – *Editor*

[2] For a detailed exposition of these principles, see Mawdūdī, *Islamic Law and Constitution*, Lahore, 1960, Ch. 4.

To illustrate what this means, let us take the case of an estate of yours which someone else has been appointed to administer on your behalf. Four conditions invariably obtain: First, the real ownership of the estate remains vested in you and not in the administrator; secondly, he administers your property directly in accordance with your instructions; thirdly, he exercises his authority within the limits prescribed by you; and fourthly, in the administration of the trust he executes your will and fulfils your intentions and not his own. Any representative who does not fulfil these four conditions will be abusing his authority and breaking the covenant which was implied in the concept of "representation".

This is exactly what Islam means when it affirms that man is the representative (*khalīfa*) of God on earth. Hence, these four conditions are also involved in the concept of *khilāfa*. The state that is established in accordance with this political theory will in fact be a caliphate under the sovereignty of God.

Democracy In Islam

The above explanation of the term *khilāfa* also makes it clear that no individual or dynasty or class can be *khalīfa*: the authority of *khilāfa* is bestowed on the whole of any community which is ready to fulfil the conditions of representation after subscribing to the principles of *tawḥīd* and *risāla*. Such a society carries the responsibility of the *khilāfa* as a whole and each one of its individuals shares in it.

This is the point where democracy begins in Islam. Every individual in an Islamic society enjoys the rights and powers of the caliphate of God and in this respect all individuals are equal. No-one may deprive anyone else of his rights and powers. The agency for running the affairs of the state will be formed by agreement with these individuals, and the authority of the state will only be an extension of the powers of the individuals delegated to it. Their opinion will be decisive in the formation of the government, which will be run with their advice and in accordance with their wishes.

Whoever gains their confidence will undertake the duties and obligations of the caliphate on their behalf; and when he loses this confidence he will have to step down. In this respect the political system of Islam is as perfect a form of democracy as there can be.

What distinguishes Islamic democracy from Western democracy, therefore, is that the latter is based on the concept of popular sovereignty, while the former rests on the principle of popular *khilāfa*. In Western democracy, the people are sovereign; in Islam sovereignty is vested in God and the people are His caliphs or representatives. In the former the people make their own laws; in the latter they have to follow and obey the laws (*sharī'a*) given by God through His Prophet. In one the government undertakes to fulfil the will of the people; in the other the government and the people have to fulfil the will of God.

The Purpose Of The Islamic State

We are now in a position to examine more closely the type of state which is built on the foundations of *tawḥīd*, *risāla* and *khilāfa*.[3]

The Holy Qur'ān clearly states that the aim and purpose of this state is the establishment, maintenance and development of those virtues which the Creator wishes human life to be enriched by and the prevention and eradication of those evils in human life which He finds abhorrent. The Islamic state is intended neither solely as an instrument of political administration nor for the fulfilment of the collective will of any particular set of people; rather, Islam places a high ideal before the state for the achievement of which it must use all the means at its disposal.

This ideal is that the qualities of purity, beauty, goodness, virtue, success and prosperity which God wants to flourish in the life of His people should be engendered and developed and that all kinds of exploitation, injustice and disorder which, in the sight of God, are ruinous for the world and detrimental to the life of His creatures, should be suppressed and prevented. Islam gives us a clear outline of its moral system by stating positively the desired virtues and the undesired evils. Keeping this outline in view, the Islamic state can plan its welfare programme in every age and in any environment.

The constant demand made by Islam is that the principles of morality must be observed at all costs and in all walks of life. Hence, it lays down as an unalterable policy that the state should base its policies on justice, truth and honesty. It is not prepared, under any circumstances, to tolerate fraud, falsehood and injustice for the sake of political, administrative or national expediency. Whether it be relations between the rulers and the ruled within the state, or the relations of the state with other states, precedence must always be given to truth, honesty and justice.

Islam imposes similar obligations on the state and the individual: to fulfil all contracts and obligations; to have uniform standards in dealings; to remember obligations along with rights and not to forget the rights of others when expecting them to fulfil their obligations; to use power and authority for the establishment of justice and not for the perpetration of injustice; to look upon duty as a sacred obligation and to fulfil it scrupulously; and to regard power as a trust from God to be used in the belief that one has to render an account of one's actions to Him in the life Hereafter.

Fundamental Rights

Although an Islamic state may be set up anywhere on earth, Islam does not seek to restrict human rights or privileges to the boundaries of such a state. Islam has laid down universal fundamental rights for humanity which are to be observed and respected in all circumstances. For

[3] For a detailed study of all these and other relevant points, see *Islamic Law and Constitution*, Ch. 4, Sec. IV and V; Ch. 5, Sec. III, V and VI; Ch. 6, Sec. IV. – *Editor*

example, human blood is sacred and may not be spilled without strong justification; it is not permissible to oppress women, children, old people, the sick or the wounded; women's honour and chastity must be respected; the hungry must be fed, the naked clothed and the wounded or diseased treated medically irrespective of whether they belong to the Islamic community or are from amongst its enemies. These, and other provisions[4] have been laid down by Islam as fundamental rights for every man by virtue of his status as a human being.

Nor, in Islam, are the rights of citizenship confined to people born in a particular state. A Muslim *ipso facto* becomes the citizen of an Islamic state as soon as he sets foot on its territory with the intention of living there and thus enjoys equal rights along with those who acquire its citizenship by birth. And every Muslim is to be regarded as eligible for positions of the highest responsibility in an Islamic state without distinction of race, colour or class.[5]

Islam has also laid down certain rights for non-Muslims who may be living within the boundaries of an Islamic state and these rights necessarily form part of the Islamic constitution.[6] In Islamic terminology, such non-Muslims are called *dhimmīs* (the covenanted), implying that the Islamic state has entered into a covenant with them and guaranteed their protection. The life, property and honour of a *dhimmī* is to be respected and protected in exactly the same way as that of a Muslim citizen. Nor is there any difference between a Muslim and a non-Muslim citizen in respect of civil or criminal law.

The Islamic state may not interfere with the personal rights of non-Muslims, who have full freedom of conscience and belief and are at liberty to perform their religious rites and ceremonies in their own way. Not only may they propagate their religion, they are even entitled to criticize Islam within the limits laid down by law and decency.

These rights are irrevocable. Non-Muslims cannot be deprived of them unless they renounce the covenant which grants them citizenship. However much a non-Muslim state may oppress its Muslim citizens it is not permissible for an Islamic state to retaliate against its non-Muslim subjects; even if all the Muslims outside the boundaries of an Islamic state are massacred, that state may not unjustly shed the blood of a single non-Muslim citizen living within its boundaries.

Executive And Legislature

The responsibility for the administration of the government in an Islamic state is entrusted to an *amīr* (leader) who may be compared to the

[4] Discussed in the following chapters.

[5] Some of the points referred to here are to materialize when the Islamic state has attained its final form. – *Editor*

[6] For details, see *Islamic Law and Constitution*, Ch. 8.

president or the prime minister in a Western democratic state. All adult men and women who subscribe to the fundamentals of the constitution are entitled to vote for the election of the *amīr*.[7]

The basic qualifications for an *amīr* are that he should command the confidence of the majority in respect of his knowledge and grasp of the spirit of Islam, that he should possess the Islamic quality of fear of God and that he should be endowed with qualities of statesmanship. In short, he should have both virtue and ability.

A *shūrā* (advisory council) is also elected by the people to assist and guide the *amīr*. It is incumbent on the *amīr* to administer his country with the advice of this *shūrā*. The *amīr* may retain office only so long as he enjoys the confidence of the people and must relinquish it when he loses that confidence. Every citizen has the right to criticize the *amīr* and his government and all reasonable means for the ventilation of public opinion must be available.

Legislation in an Islamic state is to be carried out within the limits prescribed by the law of the *sharī'a*. The injunctions of God and His Prophet are to be accepted and obeyed and no legislative body may alter or modify them or make any law contrary to them. Those commandments which are liable to two or more interpretations are referred to a sub-committee of the advisory council comprising men learned in Islamic law. Great scope remains for legislation on questions not covered by specific injunctions of the *sharī'a* and the advisory council or legislature is free to legislate in regard to these matters.

In Islam the judiciary is not placed under the control of the executive. It derives its authority directly from the *sharī'a* and is answerable to God. The judges are appointed by the government but once a judge occupies the bench he has to administer justice impartially according to the law of God; the organs and functionaries of the government are not outside his legal jurisdiction, so that even the highest executive authority of the government is liable to be called upon to appear in a court of law as a plaintiff or defendant. Rulers and ruled are subject to the same law and there can be no discrimination on the basis of position, power or privilege. Islam stands for equality and scrupulously adheres to this principle in social, economic and political realms alike.

[7] See *Islamic Law and Constitution*, Ch. 6, Sec. IV-VI.

2

Human Rights, The West And Islam

The Western Approach

People in the West have the habit of attributing every beneficial development in the world to themselves. For example, it is vociferously claimed that the world first derived the concept of basic human rights from the *Magna Carta* of Britain – which was drawn up six hundred years after the advent of Islam. But the truth is that until the seventeenth century no-one dreamt of arguing that the *Magna Carta* contained the principles of trial by jury, *Habeas Corpus* and control by Parliament of the right of taxation. If the people who drafted the *Magna Carta* were living today they would be greatly surprised to be told that their document enshrined these ideals and principles.

To the best of my knowledge, the West had no concept of human and civic rights before the seventeenth century; and it was not until the end of the eighteenth century that the concept took on practical meaning in the constitutions of America and France.

After this, although there appeared references to basic human rights in the constitutions of many countries, more often than not these rights existed only on paper. In the middle of the present century, the United Nations, which may now be more aptly described as the Divided Nations, made a Declaration of Universal Human Rights, and passed a resolution condemning genocide; regulations were framed to prevent it. But there is not a single resolution or regulation of the United Nations which can be enforced if the country concerned wants to prevent it. They are just expressions of pious hopes. They have no sanctions behind them, no force, physical or moral, to enforce them. Despite all the high-sounding resolutions of the United Nations, human rights continue to be violated and trampled upon.

The Islamic Approach

When we speak of human rights in Islam we mean those rights granted by God. Rights granted by kings or legislative assemblies can be withdrawn as easily as they are conferred; but no individual and no institution has the authority to withdraw the rights conferred by God.

The charter and the proclamations and the resolutions of the United Nations cannot be compared with the rights sanctioned by God; the former are not obligatory on anybody, while the latter are an integral part of the Islamic faith. All Muslims and all administrators who claim to be Muslim have to accept, recognize and enforce them. If they fail to enforce them or violate them while paying lip-service to them, the verdict of the Holy Qur'ān is unequivocal:

"Those who do not judge by what God has sent down are the disbelievers (*kāfirūn*)." (5:44)

The following verse also proclaims:

"They are the wrong-doers (*ẓālimūn*)." (5:45)

A third verse in the same chapter says:

"They are the perverse and law-breakers (*fāsiqūn*)." (5:47)

In other words, if temporal authorities regard their own words and decisions as right and those given by God as wrong, they are disbelievers. If, on the other hand, they regard God's commands as right but deliberately reject them in favour of their own decisions, then they are wrong-doers. Law-breakers are those who disregard the bond of allegiance.

3

Basic Human Rights

We have already seen that every man, whether he belongs to this country or that, whether he is a believer or unbeliever, whether he lives in a forest or in a desert, has certain basic human rights simply because he is a human being. We have seen, too, that it is the duty of every Muslim to recognize these rights. They are:

1. The Right To Life

The first and foremost basic right is the right to life. The Holy Qur'ān lays down:

> "Whosoever kills a human being (without any reason like) man-slaughter, or corruption on earth, it is though he had killed all mankind." (5:32)

The propriety of taking life in retaliation for murder or for spreading corruption can be decided only by a competent court of law. During a war it can be decided only by a properly established government. In any event, no individual has the right to decide such questions by himself. As the Holy Qur'ān makes clear:

> "Do not kill a soul which Allah has made sacred except through the due process of law." (6:151)

Homicide is thus distinguished from destruction of life carried out in the pursuit of justice. The Prophet, blessings of Allah and peace be upon him, has declared homicide as the greatest sin after polytheism. A Tradition of the Prophet reads: "The greatest sins are to associate something with God and to kill human beings."

In all these verses of the Qur'ān and the Traditions of the Prophet the word 'soul' (*nafs*) has been used in general terms without any indication that citizens belonging to one's own nation or the people of a particular race or religion should not be killed. The injunction applies to all human beings.

The 'Right to Life' has been given to man as a whole only by Islam. You will observe that reference to human rights in constitutions or declarations in many countries clearly implies that these rights are applicable only to the citizens of that country or to the white race. For example, human beings were hunted down like animals in Australia and the land was cleared of the aborigines for the white man. Similarly, the aboriginal population of America was systematically destroyed and the

Red Indians who somehow survived this genocide were confined to reservations. In Africa human beings were also hunted down like wild animals. Contrary to this partial concept of human rights, Islam recognizes such rights for all human beings.

2. The Right To The Safety Of Life

Immediately after the verse in the Holy Qur'ān which has been mentioned in connection with the right to life, God says:

"And whoever saves a life it is as though he had saved the lives of all mankind." (5:32)

There can be several forms of saving man from death. If a man is ill or wounded it is your duty to get him medical help. If he is dying of starvation, it is your duty to feed him. If he is drowning, it is your duty to rescue him. We regard it as our duty to save every human life, because it is thus that we have been enjoined in the Holy Qur'ān.

3. Respect For The Chastity Of Women

The third important element in the Charter of Human Rights granted by Islam is that a woman's chastity must be respected and protected at all times, whether she belongs to one's own nation or to the nation of an enemy, whether we find her in a remote forest or in a conquered city, whether she is our co-religionist or belongs to some other religion or has no religion at all. A Muslim may not physically abuse her under any circumstances. All promiscuous relationships are forbidden to him, irrespective of the status or position of the woman or of whether she is a willing partner to the act.

The words of the Holy Qur'ān in this respect are: "Do not approach (the bounds) of adultery" (17:32). Heavy punishment has been prescribed for this crime, and no mitigating circumstances are indicated. Since the violation of the chastity of a woman is forbidden in Islam, a Muslim who perpetrates this crime cannot escape punishment – whether he receives it in this world or in the Hereafter.

This concept of the sanctity of chastity and the protection of women can be found nowhere else except in Islam. The armies of the Western powers need the daughters of their own nations to satisfy their carnal appetites even in their own countries, and if they happen to occupy another country, the fate of its womenfolk can better be imagined than described.

But the history of the Muslims, apart from individual lapses, has been free from this crime against womanhood. It has never happened that after the conquest of a foreign country the Muslim army has gone about raping the women of the conquered people, or, in their own country, the government has arranged to provide prostitutes for them.*

* From the point of view of Islam, not only the woman but also the man possesses chastity. A man who perpetrates rape or adultery spoils not only the chastity of the woman, but his own as well.

4. The Right To A Basic Standard Of Life

Speaking about economic rights, the Holy Qur'ān enjoins its followers:

"And in their wealth there is acknowledged right for the needy and destitute." (51:12)

The wording of this injunction shows that it is categorical and unqualified. Furthermore, this injunction was given in Makka where there was no Muslim society in existence and where the Muslims came in contact mostly with disbelievers.

The clear meaning of this verse is that anyone who asks for help and anyone who is suffering from deprivation has a right to share in the property and wealth of a Muslim; irrespective of whether he belongs to this or to that nation, to this or to that country, to this or to that race. If one is in a position to help and a needy person asks for help or if one comes to know that he is in need, then it is one's duty to help him.

5. The Individual's Right To Freedom

Islam has categorically forbidden the primitive practice of capturing a free man to make him a slave or to sell him into slavery. On this point the unequivocal words of the Prophet (blessings of Allah and peace be upon him) are as follows: "There are three categories of people against whom I shall myself be a plaintiff on the Day of Judgement. Of these three, one is he who enslaves a free man, then sells him and eats this money" (Bukhārī and Ibn Māja).

The words of this Tradition of the Prophet have not been qualified or restricted to a particular nation or race, or to followers of a particular religion. The Europeans take great pride in claiming that they abolished slavery from the world, though they had the decency to do so only in the middle of the last century. Before this, the Western powers had been raiding Africa on a very large scale, capturing free men, putting them in bondage and transporting them to their new colonies. The treatment which they meted out to these unfortunate people was worse than that given to animals. Accounts in Western books themselves bear testimony to this fact.

The Slave Trade Of Western Nations

After the occupation of America and the West Indies, traffic in slave trade continued for three hundred and fifty years. The African ports where the Africans were brought from the interior and put on ships came to be known as the Slave Coast. In the course of only one century (from 1680 to 1786) the total number of free people who were captured and enslaved for the British Colonies amounts, according to the estimate of British authors, to 20 million. We are told that in the year 1790, 75,000 human beings were captured and sent for slave labour in the colonies. The ships which were used for transporting the slaves were small and dirty. These unfortunate

Africans were thrust into the holds like cattle and many of them were chained, one on top of the other, to wooden shelves on which they could hardly move because they were only eighteen inches apart. They were not given proper food, and if they fell ill or were injured, no attempt was made to provide them with medical treatment.

Western writers themselves state that at least 20 per cent of the total number of people who were captured for slavery and forced labour perished while being transported from Africa to America. It has also been estimated that the total number of people who were captured for slavery by the various European nations during the heyday of the slave trade was at least one hundred million. This is the record of the people who denounce Muslims for recognizing the institution of slavery. It is as if a criminal is pointing the finger of blame at an innocent man.

The Position Of Slavery In Islam

Islam tried to solve the problem of the slaves that were already in Arabia by encouraging people to set them free. Muslims were told that freeing slaves would mean the expiation of some of their sins. Freeing a slave of one's own free will was declared to be an act of such great merit that the limbs of the man who manumitted a slave would be protected from hell-fire – one for each limb of the slave freed.

The result of this policy was that, by the time the period of the Rightly-Guided Caliphs was reached, all the old slaves of Arabia had been liberated. The Prophet (blessings of Allah and peace be upon him) alone liberated as many as 63 slaves. The number of slaves freed by 'Ā'isha was 67; 'Abbās liberated 70; 'Abd Allāh bin 'Umar liberated one thousand; and 'Abd al-Raḥmān purchased thirty thousand and set them free. Other Companions of the Prophet liberated a large number of slaves, the details of which are given in the Traditions and books of history of that period.

The problem of the slaves of Arabia was thus solved in under 40 years. After this the only slaves left in Islamic society were prisoners of war captured on the battlefield. These were kept by the Muslim government in question until their own government agreed to receive them back in exchange for Muslim soldiers captured by them or arranged the payment of ransom on their behalf. If the soldiers they captured were not exchanged for Muslim prisoners of war, or their people did not pay their ransom money to purchase their liberty, the Muslim government distributed them among the soldiers of the army which had captured them.

This was a more humane way of disposing of them than penning them like cattle in concentration camps and taking forced labour from them and, if their womenfolk were also captured, setting them aside for prostitution. Islam preferred to spread them through the population and thus bring them in contact with individual human beings. Their guardians, in addition, were ordered to treat them well.

The result of this policy was that most of the men who were captured on foreign battlefields and brought to the Muslim countries as slaves

embraced Islam and their descendants produced great scholars, *imams*, jurists, commentators, statesmen and generals. So much so that later they became rulers of the Muslim world.

Today, prisoners of war throughout the world are exchanged on the cessation of hostilities. This is a practice which has been learnt from Islam. But treating well prisoners who cannot, for one reason or another, be exchanged, has *not* been learnt. Can anyone tell us, for example, the fate of the thousands of prisoners of war captured by Russia from the defeated armies of Germany and Japan in the Second World War? No-one knows how many thousands of them are still alive and how many thousands of them perished due to the hardships of the Russian concentration and labour camps. It is doubtful if, even in the times of the ancient Pharoahs of Egypt, such harsh labour was exacted from the slaves who built the pyramids as was exacted from the prisoners of war in Russia who developed Siberia and other backward areas of the country.

6. The Right To Justice

This is a very important and valuable right which Islam has given to man. The Holy Qur'ān has laid down: "Do not let your hatred of a people incite you to aggression" (5:3). "And do not let ill-will towards any folk incite you so that you swerve from dealing justly. Be just; that is nearest to heedfulness" (5:8). Stressing this point the Qur'ān again says: "You who believe stand steadfast before God as witness for (truth and) fair play" (4:135).

The point is thus made clear that Muslims have to be just not only to their friends but also their enemies. In other words, the justice to which Islam invites her followers is not limited to the citizens of one's own country, or the people of one's own tribe, nation or race, or the Muslim community as a whole; it is meant for all human beings.

7. The Equality Of Human Beings

Islam not only recognizes the principle of absolute equality between men irrespective of colour, race or nationality, it makes it an important reality. Almighty God has laid down in the Holy Qur'ān: "O mankind, we have created you from a male and female." In other words, all human beings are brothers. They all are the descendants from one father and one mother. "And we set you up as nations and tribes so that you may be able to recognize each other" (49:13). This means that the division of human beings into nations, races, groups and tribes is for the sake of distinction, so that people of one race or tribe may meet and be acquainted with people belonging to another race or tribe and co-operate with one another.

This division of the human race is neither meant for one nation to take pride in its superiority over others nor for one nation to treat another with contempt. "Indeed, the noblest among you before God are the most heedful of you" (49:13). That is, the superiority of one man over another is

only on the basis of God-consciousness, purity of character and high morals, and not colour, race, language or nationality. People are therefore not justified in assuming airs of superiority over other human beings. Nor do the righteous have any special privileges over others.

This has been thus exemplified by the Prophet (blessings of Allah and peace be upon him) in one of his sayings: "No Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over a black man, or the black man any superiority over the white man. You are all the children of Adam, and Adam was created from clay." (Bayhaqī and Bazzāz). In this manner Islam established the principle of equality of the entire human race and struck at the very root of all distinctions based on colour, race, language or nationality.

According to Islam, God has given man this right of equality as a birthright. No man should therefore be discriminated against on the grounds of the colour of his skin, his place of birth, the race or the nation in which he was born.

Malcolm X, the leader of African Negroes in America, once launched a bitter struggle against the white people of America in order to win civil rights for his black compatriots. But when he went to perform the pilgrimage, he saw how the Muslims of Asia, Africa, Europe and America were all wearing the same dress and were all hurrying towards the *Ka'ba* – and were offering prayers standing in the same row. He realized that this was the solution to the problem of colour and race, and not what he had been trying to seek or achieve in America. Today, a number of non-Muslim thinkers openly admit that no other religion or way of life has solved this problem with the same degree of success as Islam.

8. The Right To Co-operate And Not To Co-operate

Islam has prescribed a general principle of paramount importance and universal application. The Holy Qur'ān says: "Co-operate with one another for virtue and heedfulness and do not co-operate with one another for the purpose of vice and aggression" (5:2). This means that the man who undertakes noble and righteous work, irrespective of whether he is living at the North Pole or the South Pole, has the right to expect support and active co-operation from Muslims. But he who practises vice and aggression, even if he is our closest relation or neighbour, does not have the right to our support and help in the name of race, country, language or nationality, nor should he expect Muslims to co-operate with him. The wicked and vicious person may be our own brother, but he is not of us, and he can have no help or support from us as long as he does not repent of his ways. On the other hand, the man who is doing deeds of virtue and righteousness may have no kinship with Muslims, but Muslims will be his companions and supporters, or at least his well-wishers.

4

Rights Of Citizens In An Islamic State

We have discussed human rights in general. We turn now specifically to the question of the rights of citizens in an Islamic state. As these rights are more extensive than the general human rights which have been described earlier, they need separate treatment.

1. The Security Of Life And Property

In the address which the Prophet (blessings of Allah and peace be upon him) delivered on the occasion of the Farewell *Ḥajj*, he said: "Your lives and properties are forbidden to one another till you meet your Lord on the Day of Resurrection." God Almighty has laid down in the Holy Qur'ān: "Anyone who kills a believer deliberately will receive as his reward (a sentence) to live in Hell for ever. God will be angry with him and curse him, and prepare dreadful torment for him" (4:93). The Prophet (blessings of Allah and peace be upon him) has also said about the *dhimmīs* (the non-Muslim citizens of a Muslim state): "One who kills a man under covenant (i.e. a *dhimmī*) will not even smell the fragrance of Paradise" (Bukhārī and Abū Dāwūd).

Islam prohibits all killing except that done in the due process of law. This is referred to in the Qur'ān as *bi'l-ḥaqq* ("with the truth"). During wars or insurrections, only a just and righteous government, which follows the *sharī'a*, can decide whether the taking of a life is justified.

These weighty decisions may not be left in the hands of a court which has become heedless of God's will and is under the influence of the administration. Such judiciary may miscarry justice. Nor can the state seek justification in the Holy Qur'ān or Traditions if it murders citizens because they oppose unjust policies and actions or criticize it for its misdeeds; equally, the state has no right to hire assassins to kill innocent people and then protect the assassins from the just retribution of the courts. The very existence of such a government is a crime and none of the killings carried out by it can be called "execution for the sake of justice", as the Holy Qur'ān puts it.

Along with security of life, Islam has with equal clarity conferred the right of security of ownership of property. The Holy Qur'ān goes so far as to declare that the taking of people's possessions or property is prohibited

unless done by lawful means: The law of God categorically declares: "Do not devour one another's wealth by false and illegal means" (2:188).

2. The Protection Of Honour

The second important right is the right of citizens to the protection of their honour. In the address delivered on the occasion of the Farewell *Hajj* the Prophet (blessings of Allah and peace be upon him) not only prohibited Muslims taking the life and property of other Muslims, but also any encroachment on their honour, respect and chastity. The Holy Qur'ān lays down:

(a) "You who believe, do not let one (set of) people make fun of another set.
(b) Do not defame one another.
(c) Do not insult by using nicknames.
(d) And do not backbite or speak ill of one another" (49:11-12).

This law is superior to the Western law of defamation. Under Islamic law, if it is proved that someone has attacked the honour of another person, then, irrespective of whether the victim is able to prove himself a respectable and honourable person, the culprit will be punished. The interesting fact about the Western law of defamation is that the person who files suit for defamation has first to prove that he is a man of honour and public esteem and during the interrogation he may be subjected to scurrilous attacks and accusations by the defence counsel – to such an extent that the court hearing may be more damaging than the attack on his reputation which originally led him to the court. In addition, he also has to produce witnesses to testify in court that, the defamatory accusations have damaged his reputation in their eyes.

Good gracious! What a subtle point of law, and what an adherence to the spirit of law! How can this unfair and unjust law be compared to the Divine law? Islam has declared defamation a crime irrespective of whether the accused is a man of honour, or of whether the words used have actually disgraced the victim and harmed his reputation. Under Islamic law it is sufficient to prove that the accused said things which, according to common-sense, *could have* damaged the reputation and honour of the plaintiff.

3. The Sanctity And Security Of Private Life

Islam recognizes the right of every citizen in an Islamic state to no undue encroachment on the privacy of his life. The Holy Qur'ān has laid down the injunction: "Do not spy on one another" (49:12). "Do not enter any houses except your own homes unless you are sure of their occupants' consent" (24:27). The Prophet (blessings of Allah and peace be upon him) went to the extent of instructing his followers that a man should not enter even his own house suddenly or surreptitiously. He should somehow

indicate to those inside that he is entering, so that he may not see his mother, sister or daughter in a condition in which they would not like to be seen, nor in which he himself would like to see them.

Peering into the houses of other people has also been strictly prohibited – so much so that there is the saying of the Prophet (blessings of Allah and peace be upon him) that if a man finds another person secretly peering into his house, and he puts out his eye or eyes as a punishment, he will not be liable to prosecution.

The Prophet (blessings of Allah and peace be upon him) has even prohibited people from reading the letters of others; indeed, if a man is reading his letter and another man casts sidelong glances at it and tries to read it, his conduct becomes reprehensible. These are examples of the sanctity of privacy that Islam grants to individuals.

On the other hand, in the so-called modern civilised world we find that not only are the letters of other people read and censored, but even that photostat copies are retained for future use or blackmail. Bugging devices are secretly fixed in houses so that conversations taking place behind closed doors can be taped. In other words, in many spheres of life individuals have no real privacy.

This prying into the life of the individual cannot be justified on moral grounds by a government saying that it needs to know the secrets of potentially dangerous persons. The basis of this philosophy is the fear and suspicion with which modern governments look at those of their citizens who are intelligent and dissatisfied with official policies. This is exactly what Islam has called the root cause of mischief in politics. The injunction of the Prophet (blessings of Allah and peace be upon him) is: "When the ruler begins to search for the causes of dissatisfaction amongst his people, he spoils them" (Abū Dāwūd). The Amīr Mu'āwiya has said that he himself heard the Prophet saying: "If you try to find out the secrets of the people, then you will definitely spoil them or at least you will bring them to the verge of ruin."

"Spoiling" people is what happens when secret police are spread all around a country looking into their affairs: men begin to look at one another with suspicion, so much so that they are afraid of talking freely in their houses lest some word should escape from the lips of their wives and children which may put them in embarrassing situations. In this manner it becomes difficult for a common citizen to speak freely, even in his own house; society begins to suffer from mutual distrust and suspicion.

4. The Security Of Personal Freedom

Islam has laid down the principle that no citizen may be imprisoned unless his guilt has been proved in open court. To arrest a man only on the basis of suspicion and to throw him into prison without proper court proceedings and without providing him with a reasonable opportunity to produce his defence is not permissible in Islam.

It is related in the Traditions that the Prophet (blessings of Allah and peace be upon him) was once delivering a lecture in the Mosque, when a man rose and said: "O Prophet of God, for what crime have my neighbours been arrested?" The Prophet appeared not to hear the question and continued his lecture. The man rose again and repeated the question. The Prophet again did not answer and continued his lecture. The man rose for a third time and repeated the question. Then the Prophet ordered the man's neighbours to be released.

The reason why the Prophet had not answered when the question was asked twice earlier was that the police officer who had carried out the arrest was present in the Mosque; if there had been valid reasons for the arrest, he would have got up to give them. Since the police officer did not, the Prophet ordered that the arrested persons should be released. The police officer was aware of Islamic law and therefore he did not get up to say: "The administration is aware of the charges against the arrested men, but they cannot be disclosed in public. If the Prophet inquires about their guilt *in camera* I will enlighten him." If the police officer had made such a statement, he would have been dismissed then and there. The fact that the police officer did not give any reasons for the arrests in open court was sufficient for the Prophet to give immediate orders for the release of the arrested men.

The injunction of the Holy Qur'ān is very clear on this point. "Whenever you judge between people, you should judge with (a sense of) justice" (4:58). And the Prophet (blessings of Allah and peace be upon him) said: "I have been ordered by God to dispense justice between you." This was the reason why the Caliph 'Umar said: "In Islam no-one can be imprisoned except in pursuance of justice." The words used here clearly indicate that justice means due process of law in open court.

If a government suspects that a particular individual has committed a crime or is likely to commit an offence in the near future, it should give reasons for its suspicion before a court of law and the culprit or the suspect should be allowed to produce his defence. If good reason for suspicion is proved, he should be informed of how long he will be kept in preventive detention.

In all such circumstances, it is essential that the public hear the charges brought by the government, as well as the defence made by the accused, and thus have the opportunity of seeing that the due process of law is being carried out.

The correct method of dealing with such cases in Islam is exemplified in the famous decision the Prophet (blessings of Allah and peace be upon him) made before the conquest of Makka. The Prophet was making preparations for the attack on the city when one of his Companions, Ḥāṭib bin Abī Balta'a, sent a letter through a woman to the authorities in Makka informing them of the impending attack. The Prophet came to know of this through a Divine inspiration. He ordered 'Alī and Zubair: "Go quickly on the route to Makka, at such and such a place, you will find a woman

carrying a letter. Recover the letter from her and bring it to me." So they went and found the woman exactly where the Prophet had said. They recovered the letter from her and brought it to the Prophet.

This was indeed a clear case of treachery. In fact, one cannot think of a more serious crime during a time of war than giving a military secret to one's enemy. What could have been a more suitable case for a secret hearing than one into the betrayal of a military secret? But the Prophet summoned Ḥāṭib to the open court of the Mosque of the Prophet and in the presence of hundreds of people asked him to explain his position with regard to the letter addressed to the leaders of Quraysh.

The accused said: "O God's Messenger (may God's blessings be on you) I have not revolted against Islam, nor have I done this with the intention of betraying a military secret. The truth of the matter is that my wife and children are living in Makka and I do not have my tribe to protect them there. I had written this letter so that the leaders of Quraysh may be indebted to me and may protect my wife and children out of gratitude." 'Umar rose and respectfully submitted: "O Prophet, please permit me to put this traitor to the sword." The Prophet replied: "He is one of those people who took part in the battle of Badr* and the explanation he has advanced in his defence would seem to be acceptable."

Let us look at this decision of the Prophet in perspective. It was a clear case of treachery and betrayal of military secrets. But the Prophet acquitted Ḥāṭib on two counts. Firstly, that his past record was clean in that he had fought at the battle of Badr when there were heavy odds against the Muslims. Secondly, his family was in fact in danger in Makka. In such circumstances it was sufficient punishment that his secret offence became public and that he was disgraced and humiliated in the eyes of the Believers.

The attitude and activities of the Khārijites in the days of the Caliph 'Alī are well known to students of Muslim history. They used to abuse the Caliph openly, and threaten him with murder. But whenever they were arrested for these offences, 'Alī would set them free and tell his officers: "As long as they do not actually perpetrate offences against the state, the mere use of abusive language or the threat of use of force are not such offences for which they can be imprisoned." The Imām Abū Ḥanīfa has recorded the following saying of the Caliph 'Alī: "As long as they do not set out on armed rebellion, the Caliph of the Faithful will not interfere with them."

On another occasion, 'Alī was delivering a lecture in the Mosque when the Khārijites raised their special slogan there. 'Alī said: We will not deny you the right to come to the mosques to worship God, nor will we stop your share from the wealth of the state, as long as you are with us (and support us in our wars against the unbelievers) and we shall never take military action against you as long as you do not fight with us."

* Badr: the battleground of the first decisive victory won by the Muslims against the Makkan unbelievers in 2 A.H./624 Christian Era, in which 313 faithful routed more than 1,000 infidels, killed 70, and captured 70 Quraysh leaders.

One can visualize the opposition which 'Alī was facing; more violent and vituperative opposition cannot be imagined even in a present-day democratic state; but the freedom that he allowed to the opposition was such that no government has ever since been able to give to *its* opposition.

5. The Right To Protest Against Tyranny

Amongst the rights that Islam has conferred on human beings is the right to protest against a government's tyranny. The Qur'ān says: "God does not love evil talk in public unless it is by someone who has been injured thereby" (4:148). This means that God strongly disapproves of abusive language or strong words of condemnation, but that the person who has been the victim of injustice or tyranny has the right to protest strongly against the injury that has been done to him.

This right is not limited to individuals. The words of the verse have general application. If an individual or a group of people or a party usurps power and, after assuming the reins of authority, begins to tyrannize individuals or groups of men or the entire population of the country, then to raise the voice of protest is the God-given right of man. Trying to usurp this right is tantamount to rebellion against God. The talisman of Section 144* may protect such a tyrant in this world, but it cannot save him from hell-fire in the Hereafter.

6. Freedom Of Expression

Islam gives the right of freedom of thought and expression to all citizens of an Islamic State on condition that it is used for propagating virtue and not for spreading evil. This Islamic concept of freedom of expression is far superior to that of the West. Indeed, the *right* to freedom of expression to propagate virtue and righteousness is not only a right, but an *obligation*. Anyone who tries to deny this right to his people is openly at war with God, the All-Powerful. It is equally a right of and an obligation on an individual to attempt to stop evil, whether this evil is perpetrated by an individual or by a group of people or the government of one's own country or the government of some other country. Over and above this, he should openly condemn the evil and point to the morally correct course which should be adopted.

The Holy Qur'ān has described this quality of the Faithful in the following words: "They enjoin what is proper and forbid what is improper" (9:71). By contrast, describing the qualities of a hypocrite, the Qur'ān says: "They bid what is improper and forbid what is proper" (9:67). The main purpose of an Islamic government has been defined by God in the Qur'ān as follows: "If we give authority to these men on earth they will keep up prayers, and offer welfare due, bid what is proper and forbid what is

* Section 144 is the section of Indian Penal Code of 1935 adopted by the Government of Pakistan which prohibits the assembly of five or more than five persons, forming processions, or holding protest rallies. – *Editor*

improper" (22:41). The Prophet has said: "If any one of you comes across an evil, he should try to stop it with his hand (using force); if he is not in a position to stop it with his hand then he should try to stop it by means of his tongue (meaning he should speak against it). If he is not even able to use his tongue then he should at least condemn it in his heart. This is the weakest degree of faith."

The obligation to try to persuade people along the paths of righteousness and away from the paths of evil is incumbent on all true Muslims. Any government which deprives its citizens of this right is in direct conflict with divine injunction. Such a government is then not in conflict with its people, but with God: it is trying to usurp that right of its people which God has conferred not merely as a right but as an obligation.

7. Freedom Of Association

Islam has also given people the right to freedom of association and formation of parties or organizations. This right is subject to certain general rules. It should be exercised for propagating virtue and righteousness and never for spreading evil and mischief. We have not only been given this right to spread righteousness and virtue – we have been ordered to exercise it. Addressing the Muslims, the Holy Qur'ān declares: "You are the best community which has been brought forth for mankind. You command what is proper and forbid what is improper and you believe in God" (3:110).

This means that it is the obligation and duty of the entire Muslim community to enjoin people to righteousness and virtue and forbid them to do evil. If the Muslim community as a whole does not perform this duty then "let there be a community among you who will invite (people) to (do) good, command what is proper and forbid what is improper, those will be prosperous" (3:104). This clearly indicates that if the community collectively begins to neglect its obligations, then it is absolutely essential for there to be at least one group within the community prepared to meet them.

It is ironic that in a Muslim country* the assembly and association that has been formed for the purpose of spreading evil and mischief should also have the right to rule over the country and the association and party which has been formed for the purpose of propagating righteousness and virtue should live in perpetual fear of harassment and of being declared illegal. Conditions here are the reverse of what has been prescribed by God. The claim is that we are Muslims and that this is an Islamic State, but the work that is being done is directed to spreading evil, to corrupting and morally degrading and debasing people, while there is active and effective hindrance on the work being carried out to reform society and point people to righteousness. Moreover, the lives of those who are engaged in spreading righteousness and checking the spread of evil and wickedness are made intolerable.

* This passage refers to Pakistan.

8. Freedom Of Conscience And Conviction

Islam gives the right to freedom of conscience and conviction to the citizens of an Islamic State. The Holy Qur'ān has laid down the injunction: "There should be no coercion in the matter of faith" (2:256). Although there is no truth or virtue greater than Islam, and although Muslims are enjoined to invite people to embrace it and advance arguments in favour of it, they are not asked to spread this faith by force. Whoever accepts it does so by his own choice. Muslims welcome such converts to Islam with open arms and admit them to their community with equal rights and privileges. But, equally, Muslims have to recognize and respect the decision of people who do not accept Islam: no moral, social or political pressures may be put on them to change their minds.

9. Protection Of Religious Sentiments

Along with freedom of conviction and freedom of conscience, Islam guarantees the individual that his religious sentiments will be given due respect and that nothing will be said or done which may encroach on this right. It is ordained by God in the Holy Qur'ān: "Do not abuse those they appeal to instead of God" (6:108). These instructions are not limited to idols and deities – they also apply to the leaders or national heroes of the people. If a group of people hold certain convictions and certain persons in an esteem which you feel is not deserved, then it is not justifiable in Islam for you to use abusive language to them and thus injure their feelings. Islam does not prohibit people holding debate and discussions to be conducted in decency. "Do not argue with the people of the Book unless it is in the politest manner" (29:46) says the Qur'ān. This order is not limited to the people of the Scriptures, but applies with equal force to those following other faiths.

10. Protection From Arbitrary Imprisonment

Islam recognizes the right of the individual not to be arrested or imprisoned for the offences of others. The Holy Qur'ān has laid down this principle clearly: "No bearer of burdens shall be made to bear the burden of another" (6:164). Islam believes in personal responsibility. We ourselves are responsible for our acts, and their consequences cannot be transferred to someone else.

It is a matter of great regret and shame* that we are seeing this just and equitable principle, which has been framed by the Creator and Nourisher of the entire universe, being flouted and violated before our eyes. So much so that if a man is guilty of a crime or if he is a suspect, his wife is also liable to arrest. Indeed, things have gone so far that innocent people are being punished for the crimes of others.

* This passage refers to Pakistan.

To give a recent example: a man in Karachi was suspected of being involved in a bomb-throwing incident. In the course of police investigations he was subjected to horrible torture to try to extract a confession from him. When he insisted on his innocence, the police arrested his mother, his wife, daughter and sister and brought them to the police station. They were all stripped naked in his presence, and he was stripped naked before their eyes so that a confession of the crime could be extracted from him. It appears as if for the sake of investigation of crime it has become proper and legal in our country to strip innocent womenfolk of a household in order to bring pressure on a suspect.

I would here like to ask what right such tyrants who perpetrate these crimes against mankind have to tell us that they are Muslims or that they are conducting the affairs of the state according to the teachings of Islam. They are flouting a clear law of the Holy Qur'ān by stripping men and women naked. They disgrace and humiliate humanity – and then they claim that they are Muslims.

11. The Right To The Basic Necessities Of Life

Islam has recognized the right of the needy to assistance. "And in their wealth there is acknowledged right for the needy and the destitute" (51:19). In this verse, the Qur'ān has not only conferred a right to every man who asks for assistance in the wealth of the Muslims, but has also laid down that if a Muslim comes to know that a certain man is without the basic necessities of life, then, irrespective of whether he asks for assistance or not, it is his duty to give all the help that he can.

For this purpose Islam does not depend only on voluntary charity, but has made compulsory charity, *zakāt*, its third pillar, next only to the profession of faith and worship of God through regular prayers. The Prophet (blessings of Allah and peace be upon him) has clearly instructed us that: "It will be taken from their rich and given to those in the community in need" (Bukhārī and Muslim).

In addition, it has also been declared that the Islamic State should support those who have nobody to support them. The Prophet has said: "The Head of State is the guardian of him who has nobody to support him" (Abū Dāwūd, Tirmidhī). The word *walī* which is used by the Prophet has a wide range of meanings. It is the duty and the responsibility of the state to support and assist orphans, the old, the unemployed and the sick if they have no-one to help them. If a dead man has no guardian or heir, it is the duty of the state to arrange for his burial. A true Islamic State is therefore a true welfare state.

12. Equality Before The Law

Islam gives its citizens the right to absolute equality in the eyes of the law. As far as Muslims are concerned, there are clear instructions in the Holy Qur'ān and *Ḥadīth* that in their rights and obligations they are all

equal: "The believers are brothers (to each other)" (49:10). "If they (disbelievers) repent and keep up prayer and pay the welfare due they are your brothers in faith" (9:11). The Prophet has said that: "The life and blood of Muslims are equally precious" (Abū Dāwūd, Ibn Māja). In another *Ḥadīth* he has said: "The protection given by all Muslims are equal. Even an ordinary man of them can grant protection to any man" (Bukhārī, Muslim, Abū Dāwūd). In another more detailed Tradition of the Prophet, it has been said that those who accept the Oneness of God, believe in the Prophethood of His Messenger, give up primitive prejudices and join the Muslim community and brotherhood, "then they have the same rights and obligations as other Muslims have" (Bukhārī,,Nasā'ī). Thus there is absolute equality between converts to Islam and born followers of the Faith.

This religious brotherhood and the uniformity of their rights and obligations is the foundation of equality in Islamic society. The position of non-Muslim citizens in an Islamic State has been well expressed by the Caliph 'Alī: "They have accepted our protection only because their lives may be like our lives and their properties like our properties" (Abū Dāwūd). In other words, their lives and properties are as sacred as the lives and properties of Muslims. Discrimination based on class was one of the greatest crimes that, according to the Qur'ān, Pharaoh used to indulge in: "He had divided his people into different classes," ... "And he suppressed one group of them (at the cost of others)" (28:4).

13. Rulers Are Not Above The Law

Islam insists and demands that all officials of an Islamic State, from most senior to most junior, are equal in the eyes of the law. None of them can claim immunity from it. The most humble citizen has the right to file a legal complaint against the highest executive in the land. The Caliph 'Umar said; "I have myself seen the Prophet, may God's blessings be on him, taking revenge against himself (penalizing himself for some shortcoming or failing)." On the occasion of the battle of Badr, when the Prophet was straightening the rows of the Muslim army, he hit the stomach of a soldier in an attempt to push him back in line. The soldier complained, "O Prophet, you have hurt me with your stick." The Prophet immediately bared his stomach and said, "I am very sorry, you can revenge by doing the same to me." The soldier came forward and kissed the abdomen of the Prophet and said that this was all that he wanted.

A woman belonging to a high and noble family was arrested in connection with a theft. The case was brought to the Prophet and it was recommended that she be spared punishment. The Prophet replied: "The nations that lived before you were destroyed by God because they punished the common man for their offences and let their dignitaries go unpunished for their crimes; I swear by Him (God) who holds my life in His hand that even if Fāṭima, the daughter of Muḥammad, had committed this crime, then I would have amputated her hand."

During the caliphate of 'Umar, Muḥammad the son of 'Amr bin al-'Āṣ, the Governor of Egypt, whipped an Egyptian. The Egyptian went to Madina and lodged his complaint with the Caliph, who immediately summoned the Governor and his son. When they appeared before him the Caliph handed a whip to the Egyptian plaintiff and asked him to whip the son of the Governor in his presence. After the Egyptian had taken his revenge, 'Umar said to him: "Give one stroke of the whip to the Honourable Governor as well. His son would certainly not have beaten you were it not for the false pride that he had in his father's high office." The plaintiff submitted: "The person who had beaten me, I have already avenged myself on him." 'Umar said: "By God, if you had beaten him (the Governor) I would not have checked you from doing so. You have spared him of your own free will." Then he ('Umar) turned to 'Amr bin al-'Āṣ and said angrily: "O 'Amr, when did you start to enslave the people, though they were born free of their mothers?"

When the Islamic State was flourishing in its pristine glory, the common people could equally lodge complaints against the caliph of the time in the court and the caliph had to appear before the *qāḍī* to answer the charges. And if the caliph had any complaint against any citizen, he could not act without first referring the case to the court of law.

14. The Right To Avoid Sin

Islam confers the right on every citizen to refuse to commit a sin or a crime; if any government or administrator orders an individual to do a wrong, he may refuse to comply. Not only is his refusal not an offence, the giving of an order to one's subordinates to commit a sin or do a wrong is itself an offence and such a serious one that the officer who gives it, whatever his rank, is liable to summary dismissal.

These clear instructions of the Prophet are summarized in the following *Ḥadīth*: "It is not permissible to disobey God in obedience to the orders of any human being" (*Musnad* of Ibn Ḥanbal). In other words, no-one has the right to order his subordinates to act against the laws of God. No offender may seek to prove his innocence or escape punishment by saying that the offence was committed on the orders of a superior. If such a situation arises, the person who commits the offence and the person who orders it are equally liable to criminal proceedings.

15. The Right To Participate In The Affairs Of State

According to Islam, governments are representatives (*khalīfa*) of the Creator of the universe; this responsibility is not entrusted to any individual or family or to any particular class or group of people, but to the entire Muslim community. The Holy Qur'ān says: "God has promised to appoint those of you who believe and do good deeds as (His) representatives on earth" (24:55). This clearly indicates that *khilāfa* is a collective gift of God

in which the right of every individual Muslim is neither more nor less than the right of any other person.

The method recommended by the Holy Qur'ān for running the affairs of the state is as follows: "And their business is (conducted) through consultation among themselves" (42:38). According to this principle it is the right of every Muslim either to have a direct say in the affairs of the state or to have a representative chosen by him and other Muslims to participate in the running of the state.

Under no circumstances does Islam permit an individual or a group or party of individuals to deprive the common Muslims of their rights or usurp powers of the state. Nor does Islam regard it as right and proper for an individual to put on a false show of setting up a legislative assembly and by means of such tactics as fraud, persecution, bribery and so on, get himself and men of his choice elected to the assembly. This is not only treachery against the people whose rights are illegally usurped, but also against the Creator who has entrusted Muslims to rule on earth on His behalf, and has prescribed the procedure of an assembly for exercising these powers.

The *shūrā* or legislative assembly should embrace the following principles:

1. The executive head of the government and the members of the assembly should be elected by free and independent choice of the people.
2. The people and their representatives should have the right to criticize and freely express their opinions.
3. The real conditions of the country should be brought before the people without suppression of fact so that they are in a position to judge whether the government is working properly or not.
4. There should be adequate guarantee that only those people who have the support of the masses should rule over the country and those who fail to win this support should be removed from their position of authority.

5

Rights Of Enemies In War

Before the advent of Islam the world was ignorant of the concept of humane and decent rules of war. The West first began to develop this concept through the works of the seventeenth century thinker, Grotius. But the actual codification of 'international law' in war began in the middle of the nineteenth century. Prior to this all forms of barbarism and savagery were perpetrated in war, and the rights of those in a war were not even recognized, let alone respected.

The 'laws' which were framed in this field during the nineteenth century or over the following period up to the present day cannot be called laws in the real sense of the word. They are only conventions and agreements, because nations do not regard them as binding unless, of course, their adversaries also agree to abide by them. In other words, these civilized laws imply that if our enemies respect them, we shall also respect them, but if they ignore them then we shall ignore them, too. Arrangements which depend on mutual acceptability cannot be called 'laws'. This is the reason why so-called 'international law' has been constantly flouted and ignored.

Law Of War And Peace In Islam

The rules which have been framed by Islam to make war civilized and humane are in the nature of law, because they are the injunctions of God and His Prophet (blessings of Allah and peace be upon him) which are followed by Muslims in all circumstances, irrespective of the behaviour of the enemy. It would be instructive to research into how well the West has adopted the laws of war given by Islam fourteen hundred years ago; and, even after their adoption, how well the West has managed to attain those heights of civilized and human warfare behaviour which Muslims have reached through the blessings of Islam.

Western writers have often asserted that the Prophet (blessings of Allah and peace be upon him) borrowed his teachings from the Jews and the Christians. It is sufficient here to recommend the reader to refer to the Bible* so that he can see what methods of war are recommended by the sacred Book of these Western claimants to civilization and culture.

* In this connection the study of the following chapters of the Holy Bible will be sufficient: the Book of Exodus, Ch. XXIV, the Book of Numbers, Ch. III, the Book of Deuteronomy, Chs. II, VII, XXX and the Book of Joshua, Chs. VI and VIII.

We have examined in some detail the basic human rights that Islam has conferred on man. Let us now look at the rights and obligations Islam recognizes for an enemy.

The Rights Of Non-Combatants

Islam has drawn a clear distinction between combatants and non-combatants in an enemy country. As far as the non-combatant population is concerned – women, children, the old and the infirm – the instructions of the Prophet are as follows: "Do not kill any old person, any child or any woman" (Abū Dāwūd). "Do not kill the monks in monasteries" and "Do not kill the people who are sitting in places of worship" (*Musnad* of Ibn Ḥanbal).

During a war, the Prophet saw the corpse of a woman lying on the ground and observed: "She was not fighting. How then came she to be killed?" From this statement of the Prophet the exegetists and jurists have drawn the principle that those who are non-combatants should not be killed during or after a war.

The Rights Of Combatants

Now let us see what rights Islam has conferred on the combatants.

1. Torture by fire

In the *Ḥadīth* there is a saying of the Prophet that: "Punishment by fire does not behove anyone except the Master of the Fire" (Abū Dāwūd). The injunction deduced from this saying is that the adversary should not be burnt alive.

2. Protection of the wounded

"Do not attack a wounded person" said the Prophet. This means that wounded soldiers who are not fit to fight, nor actually fighting, should not be attacked.

3. Prisoners of war should not be slain

"No prisoner should be put to the sword" – a very clear and unequivocal instruction given by the Prophet.

4. No-one should be tied to be killed

"The Prophet has prohibited the killing of anyone who is tied or is in captivity."[1]

[1] The impact of this injunction has been so great that Abū Ayyūb Ansārī, who has narrated this *Hadīth* from the Prophet, has said: "I vow by the name of God, in whose hand is my life, that I will not slaughter even a chicken after tying it with a string."

5. No looting and destruction in the enemy's country

Muslims have been instructed by the Prophet not to pillage or plunder or destroy residential areas, nor harm the property of anyone not fighting. It has been narrated in the *Ḥadīth*: "The Prophet has prohibited the Believers from loot and plunder" (Bukhārī, Abū Dāwūd). His injunction is: "The loot is no more lawful than the carrion" (Abū Dāwūd). Abū Bakr Ṣiddīq used to tell soldiers on their way to war: "Do not destroy the villages and towns, do not spoil the cultivated fields and gardens, and do not slaughter the cattle."

Booty of war from the battleground is altogether different. It consists of the wealth, provisions and equipment captured from the camps and military headquarters of the combatant armies and may legitimately be appropriated.

6. Sanctity of property

Muslims have been prohibited from taking anything from the general public of a conquered country without paying for it. If the Muslim army occupies an area of the enemy country, it does not have the right to use the things belonging to the people without their consent. If the army needs anything, it should purchase it from the local population or should obtain permission from the owners. Abū Bakr Ṣiddīq used to tell Muslim armies being dispatched to the battle-front that they should not even use the milk of the milch cattle without the permission of the owners.

7. Sanctity of a dead body

Islam has categorically prohibited its followers from mutilating the corpses of their enemies, as was practised in Arabia before the advent of Islam. It is said in the *Ḥadīth*: "The Prophet has prohibited us from mutilating the corpses of the enemies" (Bukhārī, Abū Dāwūd). The occasion on which this order was given is highly instructive. In the battle of Uḥud the disbelievers mutilated the bodies of the Muslims who had fallen on the battlefield by cutting off their ears and noses and threading them together to put round their necks as trophies of war. The stomach of Ḥamza, the uncle of the Prophet, was ripped open by the Quraysh and his liver was taken out and chewed by Hinda, the wife of Abū Sufyān, the leader of the Makkan army. The Muslims were naturally enraged by this horrible sight. But the Prophet asked his followers not to mete out similar treatment to the dead bodies of the enemies.

This great example of forebearance and restraint should be sufficient to convince any reasonable man that Islam really is the religion sent down by the Creator of the universe; if Islam allowed human emotions free rein, this horrible sight on the battlefield of Uḥud would have provoked the Prophet to order his followers to mutilate the bodies of their enemy in the same manner.

8. Return of corpses of the enemy

In the battle of Aḥzāb[2] a renowned enemy warrior was killed and his body fell into the trench which the Muslims had dug for the defence of Madina. The unbelievers presented ten thousand dinars to the Prophet and requested that the dead body of their fallen warrior be handed over to them. The Prophet replied: "I do not sell dead bodies. You can take away the corpse of your fallen comrade."

9. Prohibition of breach of treaties

Islam has strictly prohibited treachery. One of the instructions that the Prophet used to give to Muslim warriors when sending them to the battlefront was: "Do not be guilty of breach of faith." This order has been repeated in the Holy Qur'ān and the *Ḥadīth* again and again. There is a famous incident in the peace treaty of Hudaybiya when, after the settlement of the terms of the treaty, Abū Jandal, the son of the emissary of the unbelievers who had negotiated the treaty with the Muslims, came bound and blood-stained to the Muslim camp crying for help. The Prophet told him: "Since the terms of the treaty have been settled, we are not in a position to help you. You should go back with your father. God will provide you with some other opportunity to escape this persecution."

The entire Muslim army was deeply touched and grieved at the plight of Abū Jandal and many of them were moved to tears. But when the Prophet declared "we cannot break the agreement," not a single person came forward to help the unfortunate prisoner; so the unbelievers forcibly dragged him back to Makka. This is an unparalleled example of the observance of the terms of agreement by Muslims; Islamic history can show many similar examples.

10. Rules about declaration of war

It has been laid down in the Holy Qur'ān: "If you apprehend breach of treaty from a people, then openly throw the treaty at their faces" (8:58). In this verse, Muslims have been prohibited from opening hostilities against their enemies without properly declaring war against them, unless, of course, the adversary has already started the aggression. Present-day 'international law' has also laid down that hostilities should not be started without declaration of war, but since this is a man-made rule, it is often disregarded. Muslim laws, on the other hand, have been framed by God and may not be disregarded.

[2] Also known as the Battle of Trench, occurred in 5 A.H./626 Christian Era.

Conclusion

This is a brief sketch of those rights which 1400 years ago Islam gave to man, to those who were at war with each other and to the citizens of its state. It refreshes and strengthens our faith in Islam when we realize that even in this modern age, which makes such loud claims of progress and enlightenment, the world has not been able to produce more just and equitable laws than those given 1400 years ago. On the other hand, it is saddening to realize that Muslims nonetheless often look for guidance to the West. Even more painful is the realization that, throughout the world, rulers who claim to be Muslims have made disobedience to their God and the Prophet the basis and foundation of their government. May God have mercy on them and give them true guidance.